

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

KEILA THOMAS,

Plaintiff,

vs.

CHILDREN'S HOSPITAL OMAHA,

Defendant.

**8:23CV177**

**ORDER**

This matter is before the Court on Defendant's Motion to Strike Plaintiff's Late-Filed and Unserved Materials. ([Filing No. 83](#)). Defendant filed a motion for summary judgment on February 14, 2025. ([Filing No. 50](#)). Plaintiff's responsive brief and supporting evidence was due March 7, 2025. Plaintiff moved for an extension of time to March 11, 2025, to file her remaining documents due to issues with the CM/ECF system. ([Filing No. 61](#)). The court granted her motion to extend. (Filing No. 63).

On March 13, 2025, the court received Plaintiff's USB drive via U.S. Mail containing video and audio evidence in support of Plaintiff's responsive pleading, which was filed electronically at [Filing No. 82](#). According to that filing, the USB drive was mailed to the court on March 7, 2025. Defendant promptly moved to strike the USB drive, and any evidence contained therein, as untimely filed and for failure to serve the same upon Defendant. For the reasons stated below, Defendant's motion is denied.

NECivR 7.1(b)(2)(A) requires a litigant opposing a motion to file and serve any evidentiary material not previously filed. Plaintiff's evidence supporting her response brief is filed at Filing Nos. 64-79 using the CM/ECF system, which sent notification to Defendant. However, the evidence contained in the USB drive mailed to the court on March

7, 2025 was not filed using CM/ECF and the court does not have the ability to file video and audio files on the docket. See [Filing No. 82](#), generally. Consequently, Defendant has not received and has not been able to review a copy of the files on the USB drive.

Upon review, the court finds Plaintiff's mailing was timely (see [Filing No. 82 at CM/ECF p. 4](#)), but she has not yet fulfilled the service requirements in the Local Rules. Plaintiff will be required to promptly mail a copy of the USB drive loaded with the appropriate files to Defendant and file a certificate of service on CM/ECF. Should Defendant need an extension of the reply brief deadline because of any delay related to the mailing and receipt of the drive, Defendant shall so move.

Accordingly,

IT IS ORDERED that Defendant's Motion to Strike ([Filing No. 83](#)) is denied.

Dated this 21st day of March, 2025.

BY THE COURT:

s/ Ryan C. Carson

United States Magistrate Judge